

**EXHIBITS**

- A. Resumes of Michael D. Hampden, Esq. and Erin McCormack-Herbert, Esq.**
- B. Partnership for Children's Rights Attorney's Fees Policy, March 31, 2008**
- C. Combined District Court Timesheet, Michael D. Hampden and Erin McCormack-Herbert**
- D. FedEx Receipts for Overnight Mailing to Court and N.Y.C. Department of Law, November 23-24, 2009**

**EXHIBIT A**

**Resumes, Michael D. Hampden, Esq. and Erin McCormack-Herbert, Esq.**

**MICHAEL D. HAMPDEN**

72 Magnolia Drive  
Dobbs Ferry, NY 10522

**Office** Partnership for Children's Rights  
**Address** 271 Madison Avenue, 17<sup>th</sup> Floor  
New York NY 10016  
(212) 683-7999 ext. 226  
Fax (212) 683-5544  
[mhampden@pfcf.org](mailto:mhampden@pfcf.org)

**Education** Harvard Law School, J.D. 1965  
Haverford College, B.A. 1962

**Admitted** New York State Bar, 1967  
**to Practice** U.S. District Courts, Southern and Eastern  
Districts of New York, 1968  
U.S. Court of Appeals, Second Circuit, 1971  
U.S. Supreme Court, 1982

**Career** **February 2000 to Present:**

Senior Attorney, Partnership for Children's Rights (formerly Legal Services for Children, Inc.), specialist in education law and children's disability benefits. Represent parents and children at school district level, CSE meetings, Impartial Hearings, SRO proceedings, and district court actions and appeals to the Second Circuit Court of Appeals.

Trainer of public interest lawyers in special education law and procedure, 2001-present, including trainings on impartial hearing practice, appeals from and enforcement of impartial hearing decisions, federal court practice in IDEA cases, advanced hearing and litigation strategies in education cases, pendency under the IDEA, compensatory education, representation of students with dyslexia, and attorney's fees under the IDEA.

**August 1995 to January 2000:**

Senior Attorney, Westchester/Putnam Legal Services (now Legal Services of Hudson Valley). Represented low-income families in education law, disability law, and family law cases.

**August 1989 to July 1995:**

Executive Director, Westchester/Putnam Legal Services. Responsible for administration and legal work of two-county suburban legal services program.

Established and supervised special education law unit covering five suburban New York counties, 1992-1995.

**January 1985 to August 1989:**

Senior attorney, Bronx Legal Services, specializing in consumer, employment and family law.

**January 1981 to January 1985:**

Project Director, Bronx Legal Services. Responsible for overall operation of county-wide legal services program with staff of 60.

**October 1978 to January 1981:**

Senior attorney, Legal Aid Society of New York City, Bronx Neighborhood Office. Specialist in consumer, employment and family law.

**January 1973 to October 1978:**

Assistant Attorney-in-Charge and Director of Appeals and Law Reform (1973-1974), then Attorney-in-Charge (1974-1978), Legal Aid Society, Bronx Neighborhood Office. Responsible for operation, administration, hiring and supervision in 13-attorney office handling full range of civil cases.

**August 1969 to December 1972:**

Staff attorney (1969-1971), then Assistant Attorney-in-Charge (1971-1972), Legal Aid Society Civil Appeals Bureau. Briefed and argued appeals in all appellate courts of the state, and handled class actions in federal and state courts.

**August 1966 to July 1969:**

Law graduate, then staff attorney in main civil office of Legal Aid Society. Handled housing, public benefit, consumer, mental health, bankruptcy and employment cases.

**ERIN MCCORMACK-HERBERT**

Partnership for Children's Rights  
271 Madison Avenue, 17<sup>th</sup> Floor  
New York, NY 10016  
(212) 683-7999 x 229  
e-mail: emccormack@pfc.org

ADMITTED TO PRACTICE: New York State, May 2006  
U.S. District Court for the Eastern District of New York, October 2007

**EDUCATION**

**NEW YORK UNIVERSITY SCHOOL OF LAW, New York, New York**

J.D., *magna cum laude*, May 2005

Honors: *New York University Law Review*, Associate Executive Editor  
Order of the Coif, Member  
Dean's Scholarship – partial tuition scholarship based upon academic merit  
Butler Scholar – designation for students with the ten highest GPAs after four semesters  
Skadden Fellow – recipient of project-based public interest legal fellowship  
Activities: Law Students for Human Rights, Symposium Committee Chairperson, 2003–2004

**FORDHAM UNIVERSITY, Bronx, New York**

B.A. in Philosophy and History, *summa cum laude, in cursu honorum*, May 2002

Cumulative GPA: 3.96

Honors: Phi Beta Kappa  
Dean's List, First Honors, all semesters  
Activities: St. Martin of Tours Volunteer Tutoring Program, Tutor  
Beacon Program, Spanish Language Tutor

**EXPERIENCE**

**PARTNERSHIP FOR CHILDREN'S RIGHTS, New York, New York**

Formerly known as Legal Services for Children, Inc.

*Skadden Fellow*, August 2005–August 2007

*Staff Attorney*, September 2007–present

Represent low-income parents seeking appropriate special education placements and services for their disabled children in administrative hearings against the New York City Department of Education and on appeal to the Office of State Review and the federal courts. Represent children appealing the denial of Supplemental Security Income disability benefits in Administrative Law Judge hearings and on appeal to the federal courts. In conjunction with other PFCR staff members, presented training sessions on special education law at Legal Services for New York, Mental Hygiene Legal Services, the International Dyslexia Association, and the Rhinelander Children's Center.

**CRIMINAL APPELLATE DEFENDER CLINIC, NYU SCHOOL OF LAW, New York, New York**

*Clinic Student*, January–November 2005

Represented a client appealing a felony conviction in the New York Supreme Court, Appellate Division, First Department. Reviewed trial transcript, conducted legal research, and corresponded with the client to identify appealable issues. Drafted appellate and reply briefs and orally argued the case before the First Department.

**TAX LAW REVIEW, NYU SCHOOL OF LAW, New York, New York**

*Student Editor*, May–August 2005

Checked citations, proofread, and Bluebooked articles on tax policy under the supervision of a faculty editor.

**LEGAL SERVICES FOR CHILDREN, INC., New York, New York**

*Legal Intern*, June–August 2004

Participated in all phases of advocacy on behalf of low-income disabled children. Conducted intake interviews and client meetings. Researched and drafted petition for submission to the Office of State Review in a special education reimbursement case. Successfully advocated for a child with a severe speech and language impairment to be placed in private school at the state's expense. Drafted pre-hearing memoranda for submission to Administrative Law Judges in cases appealing the denial of Supplemental Security Income benefits.

**PROFESSOR ADAM GRACE, NYU SCHOOL OF LAW, LAWYERING PROGRAM, New York, New York**

*Teaching Assistant*, August 2003–May 2004

Taught legal research, writing, and citation. Edited student writing assignments. Participated in role-plays designed to teach interview and client counseling techniques and provided feedback on student performance.

**KINGS COUNTY DISTRICT ATTORNEY'S OFFICE, Brooklyn, New York**

*Legal Intern, Appeals Bureau*, June–August 2003

Conducted legal research on issues such as the admissibility of a defendant's prior convictions at trial, the propriety of prosecutorial closing arguments, and the legal sufficiency of evidence. Drafted appellate briefs and a memorandum of law submitted to New York State courts.

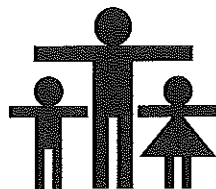
**ADDITIONAL EXPERIENCE**

Volunteer at summer camp for deaf children in upstate New York.

Concert volunteer at The Cloisters, the branch of The Metropolitan Museum of Art devoted to the art and architecture of medieval Europe.

**EXHIBIT B**

**Partnership for Children's Rights Attorney's Fees Policy,  
March 31, 2008**



**PARTNERSHIP FOR  
CHILDREN'S RIGHTS**

March 31, 2008

To: Staff and Volunteer Attorneys  
From: Warren J. Sinsheimer  
Re: Revised Attorney's Fees Policy

Effective today, please note the following revisions in the attorney's fees policy of Partnership for Children's Rights (PFCR) in education cases arising under the IDEA.

The hourly rates charged to the New York City Department of Education (NYC DOE) and other school districts after prevailing at Impartial Hearings will be as follows:

**Senior Partner** (beginning of 15<sup>th</sup> year and up) \$395.00  
**Partner** (beginning of 10<sup>th</sup> year to end of 14<sup>th</sup> year)  
\$350.00  
**Senior Associate** (beginning of 7<sup>th</sup> year to end of 9<sup>th</sup>  
year) \$295.00  
**Associate** (beginning of 4<sup>th</sup> year to end of 6<sup>th</sup> year)  
\$275.00  
**Junior Associate** (date of admission or beginning of  
employment under PFCR Practice Order, to end of 3<sup>rd</sup>  
year) \$200.00  
**Law Student Intern** \$125.00  
**Paralegal** \$100.00  
**Clerical tasks** \$50.00

This revision is based on a review of hourly rates currently charged by education law attorneys in New York City and surrounding areas, and a review of recent court decisions in cases involving fees under the IDEA. Prior to this revision, our rates have been unchanged since the last fee schedule effective October 28, 2005.

These rates apply to Impartial Hearing work, SRO appeals, and federal court litigation in both the Southern and Eastern Districts.

Use these rates for all cases in which the first billable charge in the case is on or after the effective date, March 31, 2008. All cases in which hours have been charged prior to this effective date, should continue to be billed using the previous rates. A copy of the previous rate schedule is attached for reference.

I recommend that you include a copy of the applicable rate schedule with each fee request that you send to the NYC DOE, to show that the rate used is in accordance with PFCR policy.

**EXHIBIT C**

**Combined District Court Timesheet,  
Michael D. Hampden and Erin McCormack-Herbert**

**ATTORNEY'S FEES TIMESHEET****Case:**

B.W. v. New York City Department of Education  
09 Civ. 6686 (HBP)

**Attorneys and Hourly Rates:**

Michael D. Hampden ("MDH") – \$395.00

Erin McCormack-Herbert ("EMH") – \$275.00

<b>DATE</b>	<b>HRS</b>	<b>TASKS PERFORMED</b>	<b>ATTY</b>	<b>RATE</b>	<b>TOTAL</b>
6/18/09	.7	Conference with Marilyn Mazur, Esq., Partnership for Children's Rights ("PFCR") volunteer attorney, re unpaid attorney's fees cases for Impartial Hearing ("IH") representation – B.W. o/b/o K.S. and T.S. o/b/o J.W. Received and reviewed Mazur IH files and records, including fee demand upon New York City Department of Education ("DOE") and subsequent correspondence, both cases. Determined that statute of limitations for attorney's fees action runs on 7/31/09.	MDH	\$395.00	276.50
6/23/09	.4	Conference with EMH and Todd Silverblatt, Esq., PFCR Executive Director, re planning for district court action for fees and costs.	MDH	\$395.00	158.00
	.4	Same, EMH. No charge in exercise of billing judgment ("NC").	EMH	NC	0
7/9/09	1.7	Drafted district court complaint for plaintiffs B.W. and T.S.	MDH	\$395.00	671.50
	.9	Prepared district court summons and civil cover sheet.	MDH	\$395.00	355.50
7/27/09	.8	Edited and cite-checked complaint.	MDH	\$395.00	316.00
	.5	Re-drafted summons and civil cover sheet to reflect change in defendant's corporate name from Board of Education to Department of Education. NC	MDH	NC	0
7/28/09	.3	Filed district court action in clerk's office at U.S. District Court for the Southern District of New York ("S.D.N.Y.") – 09 Civ. 6686, District Judge Berman, Magistrate Judge Pitman.	MDH	\$395.00	118.50
	0	Costs: \$350.00 district court filing fee	MDH	N/A	350.00

		paid with attorney's personal check.			
	.7	Personal service upon DOE at New York City Law Department, 100 Church Street, including travel time from S.D.N.Y. (\$150.00 paralegal rate)	MDH	\$150.00	105.00
	1.0	Round-trip attorney travel time, public transportation, to file district court action. (one-half attorney rate)	MDH	\$197.50	197.50
	0	Costs: Round-trip public transportation to file and serve district court action.	MDH	N/A	4.00
	.2	Reviewed Judge Berman's Individual Practices.	MDH	\$395.00	79.00
	.4	Prepared certificate of personal service of summons and complaint for ECF filing.	MDH	\$395.00	158.00
	.3	Prepared cover letter to Judge Berman for courtesy copies of summons, complaint, and certificate of service.	MDH	\$395.00	118.50
7/29/09	.1	Received and reviewed ECF emails re filing of district court action.	MDH	\$395.00	39.50
	.3	Prepared and filed proof of service by ECF – two filings, one for each plaintiff.	MDH	\$395.00	118.50
	.1	Received and reviewed notice from Judge Berman of pretrial conference scheduled for 9/17/09.	MDH	\$395.00	39.50
8/13/09	.1	Telephone call from David A. Rosinus, Esq., New York City Law Department ("DOE attorney"). Agreed to his request for two-week extension of time to answer.	MDH	\$395.00	39.50
	.2	Prepared PDF and emailed notice of pretrial conference to DOE attorney, as per direction of Court.	MDH	\$395.00	79.00
8/17/09	.1	Received and reviewed copy of DOE attorney's letter to Court requesting 30-day extension of time to answer, and stating in error that MDH agreed to 30-day extension.	MDH	\$395.00	39.50
8/18/09	.2	Email to DOE attorney explaining discrepancy between request for 30-day extension of time to answer and MDH consent to two-week extension. Advised DOE attorney of MDH proposals for case management plan to be submitted to Court.	MDH	\$395.00	79.00
	.1	Telephone call from DOE attorney. Worked out discrepancy amicably and agreed to 30-day extension. NC	MDH	NC	0

	.3	Received and reviewed ECF email approving 30-day extension. Incorrect docket number annexed to notice. Email to DOE attorney; he will have docket number corrected.	MDH	\$395.00	118.50
9/11/09	.2	Telephone call from DOE attorney. He is on jury duty and needs more time to answer and change in scheduled conference date. He requests B.W. timesheets for IH tasks for possible settlement.	MDH	\$395.00	79.00
	.1	Received and reviewed DOE attorney's letter to Court re time to answer and conference date.	MDH	\$395.00	39.50
9/15/09	.2	Received and reviewed ECF email from Court granting DOE extension of time to answer to 10/7/09 and rescheduling pretrial conference for 9/21/09. Forwarded email to EMH and calendared dates for answer and conference.	MDH	\$395.00	79.00
	.4	Drafted letter to DOE attorney to accompany B.W. timesheets and general release for full settlement of T.S. case, as requested.	MDH	\$395.00	158.00
	1.8	Prepared, filed and served amended complaint. Courtesy copy to Judge Berman. NC	MDH	NC	0
9/16/09	.3	Telephone call to ECF helpline for guidance in filing amended complaint – must be filed by mail or in person. Prepared filing letter to clerk of court to send with amended complaint. NC	MDH	NC	0
	.1	Emailed amended complaint and B.W. timesheet to DOE attorney. NC	MDH	NC	0
9/17/09	.2	Received and reviewed email from Daniel Michael, Judge Berman's law clerk, re changing scheduled pretrial conference to 9/21/09 at 12:45 p.m. Checked availability of EMH. Calendared conference date and replied by email confirming. Received and reviewed e-mail from DOE attorney confirming.	MDH	\$395.00	79.00
9/18/09	.2	Telephone call to DOE attorney to discuss case management plan as required by Judge Berman's Individual Practices	MDH	\$395.00	79.00
9/21/09	.5	Pretrial conference at S.D.N.Y. with	MDH	\$395.00	197.50

		Judge Berman (12:45–1:15 p.m.). Submitted case management plan and consented to refer case to Magistrate Judge Pitman for all purposes.			
	.5	Same, EMH. NC	EMH	NC	0
	.9	Round trip attorney travel time to pretrial conference. (one-half attorney rate)	MDH	\$197.50	177.75
	.9	Same, EMH. NC	EMH	NC	0
	0	Costs: Public transportation round trip to pretrial conference.	MDH	N/A	4.50
	.1	Received and reviewed Notice of Appearance from DOE attorney.	MDH	\$395.00	39.50
	.2	Received and reviewed ECF notice of approved case management plan. Calendared motion schedule.	MDH	\$395.00	79.00
	.1	Received and reviewed ECF notice of order referring case to Magistrate Judge Pitman for all purposes.	MDH	\$395.00	39.50
9/23/09	.1	Received and reviewed ECF filing of amended complaint.	MDH	\$395.00	39.50
10/1/09	.3	Courtesy copy of amended complaint sent to Judge Berman on 9/15/09 returned for insufficient postage. Re-mailed. NC	MDH	NC	0
10/7/09	.3	Received and reviewed DOE answer to amended complaint.	MDH	\$395.00	118.50
10/14/09	.1	Email to DOE attorney re follow-up on possible settlement.	MDH	\$395.00	39.50
10/15/09	.1	Received and reviewed email from DOE attorney – he will make settlement offer shortly.	MDH	\$395.00	39.50
10/28/09	.1	Email to DOE attorney re request to contact by 10/29/09 with settlement offer in view of approaching motion deadline.	MDH	\$395.00	39.50
10/29/09 11/2/09 11/3/09 11/4/09	7.1	Legal research of Second Circuit Court of Appeals and district court decisions re prevailing party status under Individuals with Disabilities Education Improvement Act of 2004 (“IDEA”). (1.2 hours on 10/29/09, 2.7 hours on 11/2/09, .8 hours on 11/3/09, and 2.4 hours on 11/4/09.) In total, reviewed and assessed for relevance 122 Second Circuit Court of Appeals and district court cases.	EMH	\$275.00	1,952.50
11/3/09	.3	Conference with EMH re status of settlement negotiations with DOE, results of research, and need to request extension	MDH	\$395.00	118.50

		of time to file motion for summary judgment.			
	.3	Same, EMH. NC	EMH	NC	0
11/4/09	.3	Email to DOE attorney re request for consent to two-week extension in motion schedule.	MDH	\$395.00	118.50
11/5/09	.1	Received and reviewed email from DOE attorney – consents to two-week extension of motion schedule.	MDH	\$395.00	39.50
	.4	Prepared letter to Magistrate Judge Pitman re request for two-week extension of motion schedule on consent.	MDH	\$395.00	158.00
11/5/09 11/11/09	4.0	Legal research for U.S. Supreme Court decisions and non-Second Circuit federal court decisions on IDEA prevailing party status. Reviewed those decisions and obtained and reviewed additional Second Circuit attorney's fees cases (IDEA and non-IDEA) cited therein. (1.5 hours on 11/5/09 and 2.5 hours on 11/11/09.)	EMH	\$275.00	1,100.00
11/9/09	.1	Telephone call to chambers of Magistrate Judge Pitman – Magistrate Judge is aware of request and will extend motion schedule.	MDH	\$395.00	39.50
	.1	Telephone call from chambers of Magistrate Judge Pitman – application granted for two-week extension of motion schedule.	MDH	\$395.00	39.50
11/10/09	.1	Received and reviewed ECF notice of court order extending motion schedule to 11/23/09.	MDH	\$395.00	39.50
11/11/09	.3	Prepared notice of motion for summary judgment.	MDH	\$395.00	118.50
	1.8	Prepared MDH declaration in support of motion for summary judgment.	MDH	\$395.00	711.00
	2.6	Prepared case citations and explanatory parentheticals to include in memorandum of law in support of motion for summary judgment (“summary judgment memo”).	EMH	\$275.00	715.00
11/13/09	2.1	Prepared affidavit of Marilyn Mazur, Esq. in support of motion for summary judgment, including telephone conference with Mazur and review of file.	MDH	\$395.00	829.50
	.4	Prepared exhibits to MDH declaration in support of motion for summary judgment.	MDH	\$395.00	158.00
11/17/09	.4	Three emails to and from DOE attorney	MDH	\$395.00	158.00

		and one telephone call – DOE intends to make settlement offer and requests additional information re district court fees.			
11/18/09	3.1	Prepared Statement of Material Facts Pursuant to Local Rule 56.1.	MDH	\$395.00	1,224.50
	.1	Telephone call from DOE attorney – left voicemail indicating that DOE will make settlement offer shortly.	MDH	\$395.00	39.50
11/19/09	.2	Email to DOE attorney – advised of total claim to date, including fees for IH and district court.	MDH	\$395.00	79.00
	.5	Three telephone calls to and from DOE attorney with settlement offers and counteroffers. No settlement reached.	MDH	\$395.00	197.50
	.1	Email to DOE attorney – advised that DOE's settlement offer is unacceptable, and that plaintiffs will proceed with motion for summary judgment.	MDH	\$395.00	39.50
	1.1	Drafted "Statutory and Regulatory Framework" section of summary judgment memo.	EMH	\$275.00	302.50
11/19/09 11/20/09 11/23/09	9.0	Drafted argument section A of summary judgment memo – "Plaintiffs Were Prevailing Parties in Their Impartial Hearings Under the IDEA." (1.2 hours on 11/19/09, 4.3 hours on 11/20/09, and 3.5 hours on 11/23/09.)	EMH	\$275.00	2,475.00
11/20/09	2.0	Reviewed Mazur affidavit with Marilyn Mazur, Esq. for accuracy and revised as needed. Reviewed Exhibits A–U with Mazur for genuineness and accuracy. (Conference 1.6 hours; edits .4 hours.)	MDH	\$395.00	790.00
	1.9	Final edits to Rule 56.1 Statement and MDH declaration, and coordinated with Mazur affidavit.	MDH	\$395.00	750.50
	.7	Reviewed rules for filing exhibits under seal to maintain confidentiality of minors. Prepared letter to Magistrate Judge Pitman, copy to DOE attorney, re leave to file exhibits under seal.	MDH	\$395.00	276.50
11/21/09	.1	Telephone call from chambers of Magistrate Judge Pitman – leave to file exhibits under seal granted.	MDH	\$395.00	39.50
	.8	Drafted preliminary statement and conclusion for summary judgment memo.	MDH	\$395.00	316.00

		Prepared addendum to memorandum of law setting forth IDEA attorney's fees provision.			
	2.1	Prepared statement of facts for summary judgment memo.	MDH	\$395.00	829.50
	2.8	Legal research for argument sections B, C, and D of summary judgment memo – reasonable hours, prevailing rates, and fees for district court action.	MDH	\$395.00	1,106.00
	3.7	Drafted argument sections B, C, and D of summary judgment memo.	MDH	\$395.00	1,461.50
11/22/09	3.5	Assembled and labeled exhibits in support of motion for summary judgment – approximately 1,000 pages – for filing under seal. (\$50.00 clerical rate)	MDH	\$50.00	175.00
	2.1	Proofread, edited, and cite-checked argument sections, B, C, and D of summary judgment memo.	MDH	\$395.00	829.50
11/23/09	.3	Conference with EMH to coordinate sections of summary judgment memo drafted by MDH and EMH.	MDH	\$395.00	118.50
	.3	Same, EMH. NC	EMH	NC	0
	1.2	Reviewed and edited EMH draft of argument section A of summary judgment memo.	MDH	\$395.00	474.00
	2.7	Proofread, cite checked, edited, and finalized Statutory and Regulatory Framework section and argument section A of summary judgment memo.	EMH	\$275.00	742.50
	.9	Prepared cover pages for motion for summary judgment, Rule 56.1 Statement, and summary judgment memo.	MDH	\$395.00	355.50
	.4	Prepared proof of service – motion for summary judgment, Rule 56.1 Statement, and summary judgment memo.	MDH	\$395.00	158.00
	.3	Prepared courtesy copy letter to Magistrate Judge Pitman.	MDH	\$395.00	118.50
	.8	Scanned exhibits in support of motion for summary judgment and created CD for filing with Court. (\$50.00 clerical rate)	EMH	\$50.00	40.00
	0	Costs: 6 reams of plain paper for exhibits @ \$3.60 per ream.	N/A	N/A	21.60
	0	Costs: FedEx mailing to DOE attorney of all motion papers.	N/A	N/A	24.54
	0	Costs: FedEx mailing to Magistrate Judge Pitman of all motion papers.	N/A	N/A	23.32

11/24/09	.5	ECF filing of all papers not under seal – six filings total.	MDH	\$395.00	197.50
	.1	Received and reviewed ECF notice confirming filing of papers not under seal.	MDH	\$395.00	39.50
11/25/09	1.2	Delivered exhibits under seal to clerk, 500 Pearl Street, by hand as required by ECF rules. (\$50.00 clerical rate)	MDH	\$50.00	60.00
	0	Costs: Round trip public transportation to deliver exhibits under seal to court clerk.	MDH	N/A	4.50
11/30/09	.1	Received and reviewed ECF docket entry re filing under seal.	MDH	\$395.00	39.50
12/14/09	.1	Telephone call from DOE attorney – requests consent to three-week extension of time to respond to motion for summary judgment.	MDH	\$395.00	39.50
12/16/09	.1	Email to DOE attorney – consent given for three-week extension.	MDH	\$395.00	39.50
12/17/09	.1	Received and reviewed faxed request by DOE attorney to Magistrate Judge Pitman for extension of time to respond to plaintiffs’ motion for summary judgment.	MDH	\$395.00	39.50
12/21/09	.1	Received and reviewed ECF docket entry extending time for DOE response.	MDH	\$395.00	39.50
1/3/10	.2	Telephone call from DOE attorney to discuss procedural consequences of various outcomes of plaintiffs’ motion for summary judgment.	MDH	\$395.00	79.00
	1.9	Received, reviewed, and analyzed DOE memorandum of law in opposition to plaintiffs’ motion for summary judgment and response to plaintiffs’ Rule 56.1 Statement.	MDH	\$395.00	750.50
1/14/10	.9	Reviewed DOE memorandum of law in opposition to plaintiffs’ motion for summary judgment and response to plaintiffs’ Rule 56.1 Statement.	EMH	\$275.00	247.50
	.5	Conference with EMH – outlined contents of Plaintiffs’ Reply Memorandum of Law (“reply memo”).	MDH	\$395.00	197.50
	.5	Same, EMH. NC	EMH	NC	0
	.2	Reviewed PFCR fee payment records to confirm DOE claim that T.S. fees were paid. Determined that fee was paid in November 2009, after filing of district court action.	MDH	\$395.00	79.00
1/15/10	.5	Drafted preliminary statement for reply	EMH	\$275.00	137.50

		memo.			
	1.3	Legal research for additional federal case law holding that the parent is the prevailing party where the student's Individualized Education Program ("IEP") is found to be inappropriate.	EMH	\$275.00	357.50
	.8	Prepared case citations for reply memo.	EMH	\$275.00	220.00
	.1	Received and reviewed hard copies of DOE papers in opposition to plaintiff's motion for summary judgment. NC	MDH	NC	0
1/19/10	1.7	Began drafting reply memo Point I – "Plaintiff B.W. Is a Prevailing Party Eligible for an Award of Reasonable Attorney's Fees."	EMH	\$275.00	467.50
	.6	Legal research for federal case law refuting DOE suggestion that <u>Mavis v. Sobol</u> , 839 F. Supp. 968 (N.D.N.Y. 1994), is too old to constitute adequate legal authority, and for S.D.N.Y. decisions citing as authority the cases cited in plaintiffs' summary judgment memo that the DOE attempts to distinguish in its memorandum of law – <u>Mavis, J.S. v. Crown Point Central School District</u> , No. 8:06-CV-159 (FJS/DRH), 2007 WL 475418 (N.D.N.Y. Feb. 9, 2007), and <u>D.M. v. Board of Education</u> , 296 F. Supp. 2d 400 (E.D.N.Y. 2003).	EMH	\$275.00	165.00
1/21/10	.7	Legal research for circuit court and district court decisions outside Second Circuit supporting proposition that finding of denial of free appropriate public education ("FAPE") confers prevailing-party status on parent.	EMH	\$275.00	192.50
1/22/10 1/25/10	2.9	Legal research for federal case law holding that a student's prior progress, or lack thereof, in the program recommended in the student's IEP is a relevant factor in assessing the appropriateness of the IEP. (1.4 hours on 1/22/10 and 1.5 hours on 1/25/10.)	EMH	\$275.00	797.50
1/22/10 1/25/10 1/26/10	4.0	Finished drafting Point I.B of reply memo – "The IHO's Decision Materially Altered the Legal Relationship Between K.S. and the DOE." (1.1 hours on	EMH	\$275.00	1,100.00

		1/22/10, .8 hours on 1/25/10, and 2.1 hours on 1/26/10).			
1/26/10 1/27/10	3.1	Finished drafting reply memo Point I.A – “B.W. Obtained the Primary Benefit Sought in Her IDEA Impartial Hearing—The Enforcement of K.S.’s Right to a Free Appropriate Public Education.” (1.7 hours on 1/26/10 and 1.4 hours on 1/27/10.)	EMH	\$275.00	852.50
1/26/10	.1	Telephone call to DOE attorney – requested consent to extended 15-page limit for plaintiffs’ reply memo.	MDH	\$395.00	39.50
	.3	Prepared letter to Magistrate Judge Pitman requesting extended 15-page limit for reply memo.	MDH	\$395.00	118.50
1/27/10	3.4	Drafted reply memo Point I.C – “The DOE’s Attempt to Undermine Plaintiffs’ Legal Authority Is Unpersuasive.”	EMH	\$275.00	935.00
	1.8	Drafted reply memo Point II – “Plaintiff B.W. Achieved Success Warranting a Full Attorney’s Fees Award.”	EMH	\$275.00	495.00
	.8	Reviewed and edited EMH draft of reply memo.	MDH	\$395.00	316.00
	.5	Began editing reply memo to fit within anticipated 15-page limit.	EMH	\$275.00	137.50
1/28/10	.1	Telephone call to chambers of Magistrate Judge Pitman – leave to file 15-page reply memo confirmed.	MDH	\$395.00	39.50
	.3	Prepared cover page and proof of service for reply memo.	MDH	\$395.00	118.50
	3.8	Substantive editing, cite-checking, and proofreading of reply memo.	EMH	\$275.00	1,045.00
	.2	Prepared Table of Contents for reply memo.	EMH	\$275.00	55.00
	.2	Filed reply memo via ECF.	MDH	\$395.00	79.00
	.2	Prepared courtesy copy letter to Magistrate Judge Pitman, enclosing all motion papers of both parties.	MDH	\$395.00	79.00
	.1	Received and reviewed ECF filings of DOE memorandum of law and response to Rule 56.1 Statement.	MDH	\$395.00	39.50
	.1	Received and reviewed order of Magistrate Judge Pitman permitting 15-page reply memo.	MDH	\$395.00	39.50
	.2	Sent copies of all motion papers to DOE attorney by mail and email, and to	MDH	NC	0

		Magistrate Judge Pitman by mail. NC			
6/3/10	.6	Received and reviewed Opinion and Order of Magistrate Judge Pitman – 40 pages, fully favorable, directs plaintiffs to submit district court fees within 15 days.	MDH	\$395.00	237.00
6/4/10	.4	Reviewed Opinion and Order of Magistrate Judge Pitman. NC	EMH	NC	0
6/11/10	.1	Telephone call to DOE attorney. Spoke to Lesley Berson, Esq. re request for consent to extend time to submit district court fees to 6/30/10. Prepared and faxed letter to Magistrate Judge Pitman requesting extension of time to submit district court fee motion to 6/30/10. NC	MDH	NC	0
6/18/10	1.9	Prepared MDH district court timesheet from contemporaneous time log	MDH	\$395.00	750.50
	.8	Prepared EMH district court time sheet from contemporaneous log.	EMH	\$275.00	220.00
6/22/10	1.0	Combined MDH and EMH timesheets into one chronological document for submission to court. (\$100.00 paralegal rate)	MDH	\$100.00	100.00
6/23/10	1.2	Prepared MDH and EMH affidavits in support of district court fees and costs	MDH	\$395.00	474.00
	.5	Assembled Exhibits in support of motion for district court fees and costs (\$100.00 paralegal rate)	MDH	\$100.00	50.00
6/23/10 – 6/24/10	4.6	Prepared memo of law in support of motion for district court fees and costs, including legal research, drafting, editing and cite-checking.	MDH	\$395.00	1,817.00
6/25/10	.3	Prepared covering letter to MJ Pitman for courtesy copies, motion papers and memorandum of law. No charge.	MDH	NC	0
6/28/10	.3	Filed motion for district court fees, affidavits, exhibits and memorandum of law by ECF. No charge.	MDH	NC	0
<b>TOTALS</b>	<b>124.6</b>				<b>37,419.71</b>

**Total Hours: 124.6**

**Total Fees: \$36,987.25**

**Total Costs: \$432.46**

**TOTAL FEES AND COSTS: \$37,419.71**

**EXHIBIT D**

**FedEx Receipts for Overnight Mailing  
to Court and N.Y.C. Department of Law,  
November 23-24, 2009**

<b>4a Express Package Service</b> <input checked="" type="checkbox"/> <b>FedEx Express Overnight</b> <small>Next business morning, 7 a.m. to 4 p.m. Monday through Saturday. Delivery is guaranteed.</small> <input type="checkbox"/> <b>FedEx Express Saver</b> <small>Second business day*, Thursday through Saturday. Delivery is guaranteed.</small> <input type="checkbox"/> <b>FedEx 2Day Freight</b> <small>Second business day*, Thursday through Saturday. Delivery is guaranteed.</small>		<b>5 Packaging</b> <input type="checkbox"/> <b>FedEx Pak*</b> <small>FedEx Large Pak and FedEx Small Pak</small> <input checked="" type="checkbox"/> <b>FedEx Box</b> <small>FedEx Small Pak and FedEx Tube</small>		<b>6 Special Handling</b> <input type="checkbox"/> <b>SATURDAY Delivery</b> <small>Not available for all services. For details, see back of this form.</small> <input type="checkbox"/> <b>HOLD Saturday at FedEx Location</b> <small>Not available for all services. For details, see back of this form.</small> <input type="checkbox"/> <b>FedEx First Overnight, FedEx Express Saver, or FedEx 2Day Freight</b> <small>These bills will be sent to the addressee.</small>		<b>7 Payment Bill to:</b> <input type="checkbox"/> <b>Enter FedEx Acct. No. or Credit Card No. below.</b> <input type="checkbox"/> <b>Recipient</b> <input type="checkbox"/> <b>Third Party</b> <input type="checkbox"/> <b>Credit Card</b> <input type="checkbox"/> <b>Cash/Check</b> <small>Acct. No. in Section 1 will be billed.</small>	
<b>4b Express Freight Service</b> <input type="checkbox"/> <b>FedEx 1Day Freight*</b> <small>Appointments will be delivered on Monday through Saturday. Delivery is guaranteed.</small> <input type="checkbox"/> <b>FedEx 2Day Freight</b> <small>Appointments will be delivered on Monday through Saturday. Delivery is guaranteed.</small>		<b>8 NEW Residential Delivery Signature Options</b> <small>If you require a signature, check Direct or Indirect Signature.</small> <input type="checkbox"/> <b>Direct Signature</b> <small>Anyone at recipient's address near sign for delivery. For details, see back of this form.</small> <input type="checkbox"/> <b>Indirect Signature</b> <small>Anyone at recipient's address, anyone other than the addressee, sign for delivery. For details, see back of this form.</small>		<b>9 NEW Residential Delivery Signature Options</b> <small>If you require a signature, check Direct or Indirect Signature.</small> <input type="checkbox"/> <b>Direct Signature</b> <small>Anyone at recipient's address near sign for delivery. For details, see back of this form.</small> <input type="checkbox"/> <b>Indirect Signature</b> <small>Anyone at recipient's address, anyone other than the addressee, sign for delivery. For details, see back of this form.</small>			

**7 Payment Bill to:** ☐ Enter FedEx Acct. No. or Credit Card No. below.

☐ Recipient ☐ Third Party ☐ Credit Card ☐ Cash/Check

Acct. No. in Section 1 will be billed.

**8 NEW Residential Delivery Signature Options** If you require a signature, check Direct or Indirect Signature.

☐ Direct Signature Anyone at recipient's address near sign for delivery. For details, see back of this form.

☐ Indirect Signature Anyone at recipient's address, anyone other than the addressee, sign for delivery. For details, see back of this form.

**7 Payment Bill to:** ☐ Enter FedEx Acct. No. or Credit Card No. below.

☐ Recipient ☐ Third Party ☐ Credit Card ☐ Cash/Check

Acct. No. in Section 1 will be billed.

**8 NEW Residential Delivery Signature Options** If you require a signature, check Direct or Indirect Signature.

☐ Direct Signature Anyone at recipient's address near sign for delivery. For details, see back of this form.

☐ Indirect Signature Anyone at recipient's address, anyone other than the addressee, sign for delivery. For details, see back of this form.

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☐ Recipient ☐ Third Party ☐ Credit Card ☐ Cash/Check

Acct. No. in Section 1 will be billed.

**8 NEW Residential Delivery Signature Options** If you require a signature, check Direct or Indirect Signature.

☐ Direct Signature Anyone at recipient's address near sign for delivery. For details, see back of this form.

☐ Indirect Signature Anyone at recipient's address, anyone other than the addressee, sign for delivery. For details, see back of this form.

